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1 Attorneys for San Francisco Technology Inc.

8 United States District Court
9 Northern District of California, San Jose Division

10 San Francisco Technology Inc.

11 Plaintiff

12 vs.

13 The Glad Products Company, Bajer Design
14 & Marketing Inc., Bayer Corporation,
15 Bright Image Corporation, Church &
16 Dwight Co. Inc., Colgate-Palmolive
17 Company, Combe Incorporated, The Dial
18 Corporation, Exergen Corporation,
19 GlaxoSmithKline LLC, Hi-Tech
20 Pharmacal Co. Inc., Johnson Products
21 Company Inc., Maybelline LLC, McNeil-
PPC Inc., Medtech Products Inc., Playtex
Products Inc., Reckitt Benckiser Inc.,
Roche Diagnostics Corporation,
SoftSheen-Carson LLC, Sun Products
Corporation, Sunstar Americas Inc.

22 Defendants

Case No.

Complaint

CV 10-03246

Demand For Jury Trial

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SAN JOSE, CALIFORNIA 95110-2740
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1 Plaintiff San Francisco Technology Inc. ("SF Tech") files this Complaint against defendants
 2 The Glad Products Company ("Glad"), Bajer Design & Marketing Inc. ("Bajer"), Bayer Corporation
 3 ("Bayer"), Bright Image Corporation ("Bright Image"), Church & Dwight Co. Inc. ("Church &
 4 Dial Corporation ("Dial"), Exergen Corporation ("Exergen"), GlaxoSmithKline LLC ("GSK"), Hi-
 5 Tech Pharmacal Co., Inc. ("Hi-Tech Pharmacal"), Johnson Products Company Inc. ("Johnson"),
 6 Maybelline LLC ("Maybelline"), McNeil-PPC Inc. ("McNeil-PPC"), Medtech Products Inc.
 7 ("Medtech"), Playtex Products Inc. ("Playtex"), Reckitt Benckiser Inc. ("RBI"), Roche Diagnostics
 8 Corporation ("Roche"), SoftSheen-Carson LLC ("SoftSheen-Carson"), Sun Products Corporation
 9 ("Sun"), Sunstar Americas Inc. ("Sunstar") and alleges as follows:

Nature of Action

12 1. This is a *qui tam* action to impose civil fines for false marking. As alleged further
 below, each defendant has falsely marked articles in violation of 35 U.S.C. § 292 and must be civilly
 fined for each offense: "Whoever marks upon, or affixes to, or uses in advertising in connection with
 any unpatented article, the word 'patent' or any word or number importing that the same is patented,
 for the purpose of deceiving the public ... Shall be fined not more than \$500 for every such offense."

17 Each defendant has falsely marked products with patents to induce the public to believe that each
 18 such product is protected by each patent listed and with knowledge that nothing is protected by an
 19 expired patent. Accordingly, each defendant falsely marked articles with intent to deceive the public.

Parties

21 2. Plaintiff San Francisco Technology is a Delaware corporation with its principal place
 22 of business in San Jose, California.

23 3. Glad: Upon information and belief, Glad is a Delaware business entity with a principal
 24 place of business at 1221 Broadway, Oakland CA 94612.

25 4. Bajer: Upon information and belief, Bajer is a Wisconsin business entity with its
 26 principal place of business at 1801 Airport Road Ste A, Waukesha WI 53188.

27 5. Bayer: Upon information and belief, Bayer is an Indiana business entity with its
 28 principal place of business at 100 Bayer Road, Pittsburgh PA 15205.

1 6. Bright Image: Upon information and belief, Bright Image is an Illinois business entity
2 with a principal place of business at 2830 S 18th Ave, Broadview IL 60153.

3 7. Church & Dwight: Upon information and belief, Church & Dwight is a Delaware
4 business entity with a principal place of business at 469 N Harrison St, Princeton NJ 08543.

5 8. Colgate-Palmolive: Upon information and belief, Colgate-Palmolive is a Delaware
6 business entity with a principal place of business at 300 Park Ave, New York NY 10022-7499.

7 9. Combe: Upon information and belief, Combe is a Delaware business entity with a
8 principal place of business at 1101 Westchester Ave, White Plains NY 10604.

9 10. Dial: Upon information and belief, Dial is a Delaware business entity with a principal
10 place of business at 19001 N Scottsdale Rd, Scottsdale AZ 85255.

11 11. Exergen: Upon information and belief, Exergen is a Massachusetts business entity
12 with a principal place of business at 51 Water St., Watertown MA 02172.

13 12. GSK: Upon information and belief, GSK is a Delaware business entity with a
14 principal place of business at One Franklin Plaza 200 N 16th St, Philadelphia PA 19102.

15 13. Hi-Tech Pharmacal: Upon information and belief, Hi Tech is a Delaware business
16 entity with a principal place of business at 369 Bayview Ave, Amityville NY 11701.

17 14. Johnson: Upon information and belief, Johnson is a Delaware business entity with a
18 principal place of business in Dallas, Texas.

19 15. Maybelline: Upon information and belief, Maybelline is a New York business entity
20 with a principal place of business in New York.

21 16. McNeil-PPC: Upon information and belief, McNeil-PPC is a New Jersey business
22 entity with a principal place of business at 7050 Camp Hill Road, MB # 219; Fort Washington PA
23 19034.

24 17. Medtech: Upon information and belief, Medtech is a Delaware business entity with a
25 principal place of business at 90 N Broadway, Irvington NY 10533.

26 18. Playtex: Upon information and belief, Playtex is a Delaware business entity with a
27 principal place of business in Westport, Connecticut.

28 19. RBI: Upon information and belief, RBI is a Delaware business entity with a principal

1 place of business at 399 Interpace Parkway, Parsippany NJ 07054-0225.

2 20. Roche: Upon information and belief, Roche is an Indiana business entity with a
3 principal place of business at 9115 Hague Road, P.O. Box 50457, Indianapolis IN 46250.

4 21. SoftSheen-Carson: Upon information and belief, SoftSheen-Carson is a New York
5 business entity with a principal place of business in New York, New York.

6 22. Sun: Upon information and belief, Sun is a Delaware business entity with a principal
7 place of business at 60 Danbury Road, Wilton CT 06897.

8 23. Sunstar: Upon information and belief, Sunstar is a Delaware business entity with a
9 principal place of business at 4635 W Foster Ave, Chicago IL 60630.

Jurisdiction & Venue

10 24. This court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1335(a).

11 25. Venue is appropriate in this District under 28 U.S.C. §§ 1331(b) and 1335(a).

12 26. This court has personal jurisdiction over each defendant, as alleged further below.

13 27. Glad: Upon information and belief, Glad's principal place of business is in Oakland,
14 California, which is within this District. Upon information and belief, Glad has appointed an agent
15 for service of process in California: CT Corporation System, 818 West Seventh St, Los Angeles CA
16 90017. Upon information and belief, Glad has sold its products, including its falsely marked
17 products in California and in this District and/or in the stream of commerce with knowledge that they
18 would be sold in California and in this District. Upon information and belief, such sales are
19 substantial, continuous, and systematic.

20 28. Bajer: Upon information and belief, Bajer has sold its products, including its falsely
21 marked products in California and in this District and/or in the stream of commerce with knowledge
22 that they would be sold in California and in this District. Upon information and belief, such sales are
23 substantial, continuous, and systematic. Bajer advertises its products, including its falsely marked
24 products on its web site, at www.bajerdesign.com. Bajer advertises on that web site¹ that its products
25 are sold at many retail store chains which have locations in California and in this District, including
26 Ace, CVS, Family Dollar, K-Mart, Longs, Safeway, Sam's Club, Walgreens, and Wal-Mart.
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¹ <http://www.bajerdesign.com/wheretofindus.html>

1 29. Bayer: Upon information and belief, Bayer has appointed an agent for service of
2 process in California: Corporation Service Company, 2730 Gateway Oaks Dr Ste 100, Sacramento
3 CA 95833. Upon information and belief, Bayer has sold its products, including its falsely marked
4 products in California and in this District and/or in the stream of commerce with knowledge that they
5 would be sold in California and in this District. Upon information and belief, such sales are
6 substantial, continuous, and systematic.

7 30. Bright Image: Upon information and belief, Bright Image has sold its products,
8 including its falsely marked products in California and in this District and/or in the stream of
9 commerce with knowledge that they would be sold in California and in this District. Upon
10 information and belief, such sales are substantial, continuous, and systematic. Bright Image
11 advertises its products, including its falsely marked products, on its web site, at
12 www.touchandglow.com. On that web site, Bright Image sells its products, including its falsely
13 marked products to customers, including, upon information and belief, customers in California and in
14 this District.

15 31. Church & Dwight: Upon information and belief, Church & Dwight has appointed an
16 agent for service of process in California: National Registered Agents Inc., 2875 Michelle Dr Ste
17 100, Irvine CA 92606. Upon information and belief, Church & Dwight has sold its products,
18 including its falsely marked products in California and in this District and/or in the stream of
19 commerce with knowledge that they would be sold in California and in this District. Upon
20 information and belief, such sales are substantial, continuous, and systematic.

21 32. Colgate-Palmolive: Upon information and belief, Colgate-Palmolive has appointed an
22 agent for service of process in California: CT Corporation System, 818 West Seventh St, Los Angeles
23 CA 90017. Upon information and belief, Colgate-Palmolive has sold its products, including its
24 falsely marked products in California and in this District and/or in the stream of commerce with
25 knowledge that they would be sold in California and in this District. Upon information and belief,
26 such sales are substantial, continuous, and systematic.

27 33. Combe: Upon information and belief, Combe has sold its products, including its
28 falsely marked products in California and in this District and/or in the stream of commerce with

knowledge that they would be sold in California and in this District. Upon information and belief, such sales are substantial, continuous, and systematic.

34. Dial: Upon information and belief, Dial has appointed an agent for service of process in California: Corporation Service Company, 2730 Gateway Oaks Dr Ste 100, Sacramento CA 95833. Upon information and belief, Dial has sold its products, including its falsely marked products in California and in this District and/or in the stream of commerce with knowledge that they would be sold in California and in this District. Upon information and belief, such sales are substantial, continuous, and systematic.

35. Exergen: Upon information and belief, Exergen has sold its products, including its falsely marked products in California and in this District and/or in the stream of commerce with knowledge that they would be sold in California and in this District. Upon information and belief, such sales are substantial, continuous, and systematic. Exergen advertises on its web site² that its temporal thermometer products are sold at many retail store chains which have locations in California and in this District, such as Toys R Us, Babies R Us, Costco, Walgreens, Sam's Club, and Wal-Mart. Exergen also advertises on its web site³ the contact information for its California sales representatives.

36. GSK: Upon information and belief, GSK has appointed an agent for service of process in California: Corporation Service Company, 2730 Gateway Oaks Dr Ste 100, Sacramento CA 95833. Upon information and belief, GSK has sold its products, including its falsely marked products in California and in this District and/or in the stream of commerce with knowledge that they would be sold in California and in this District. Upon information and belief, such sales are substantial, continuous, and systematic.

37. Hi-Tech Pharmacal: Upon information and belief, Hi-Tech Pharmacal has sold its products, including its falsely marked products in California and in this District and/or in the stream of commerce with knowledge that they would be sold in California and in this District. Upon information and belief, such sales are substantial, continuous, and systematic. Upon information and belief, Hi-Tech Pharmacal operates a web site to advertise its falsely marked products at

² <http://www.exergen.com/medical/TAT/tatconsumerpage.htm>

³ <http://www.exergen.com/industrl/contacts/index.htm>

1 www.zostrix.com. A page⁴ on that web site advertises that the falsely marked products can be
 2 purchased at retail store chains which have locations in California and in this District, such as CVS,
 3 K-Mart, Longs Drugs, Walgreens, Stop & Shop, and Rite Aid.

4 38. Johnson: Upon information and belief, Johnson has sold its products, including its
 5 falsely marked products in California and in this District and/or in the stream of commerce with
 6 knowledge that they would be sold in California and in this District. Upon information and belief,
 7 such sales are substantial, continuous, and systematic. Johnson advertises its products, including the
 8 falsely marked products, on its web site, www.johnsonproducts.com. A page⁵ on that web site invites
 9 prospective purchasers to search for local retail stores where Johnson's products, including the falsely
 10 marked products, are sold. That page indicates that those products are sold at many retail stores in
 11 California and in this District, including at least 22 locations in or near this court's zip code, 95113.

12 39. Maybelline: Upon information and belief, Maybelline has sold its products, including
 13 its falsely marked products, in California and in this District and/or in the stream of commerce with
 14 knowledge that they would be sold in California and in this District. Upon information and belief,
 15 such sales are substantial, continuous, and systematic.

16 40. McNeil-PPC: Upon information and belief, McNeil-PPC has sold its products,
 17 including its falsely marked products, in California and in this District and/or in the stream of
 18 commerce with knowledge that they would be sold in California and in this District. Upon
 19 information and belief, such sales are substantial, continuous, and systematic. Upon information and
 20 belief, McNeil-PPC has appointed an agent for service of process in California: CT Corporation
 21 System, 818 West Seventh St, Los Angeles CA 90017.

22 41. Medtech: Upon information and belief, Medtech has sold its products, including its
 23 falsely marked products, in California and in this District and/or in the stream of commerce with
 24 knowledge that they would be sold in California and in this District. Upon information and belief,
 25 such sales are substantial, continuous, and systematic. On its Dermoplast product labels, Medtech
 26 represents that it is "a Prestige Brands" company, apparently referring to Prestige Brands Inc., which

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⁴ <http://www.zostrix.com/pages/buy.asp>

⁵ <http://www.johnsonproducts.com/store.php>

1 maintains the web site www.prestigebrands.com. On that web site,⁶ Medtech advertises that its
2 falsely marked products are available for purchase in California at numerous retail store chains with
3 many locations in California and in this District, such Raley's, Albertson's, Sav-On Drug, K-Mart,
4 Price Less Drug, Walgreens, Rite-Aid Drug, and CVS.

5 42. Playtex: Upon information and belief, Playtex has sold its products, including its
6 falsely marked products, in California and in this District and/or in the stream of commerce with
7 knowledge that they would be sold in California and in this District. Upon information and belief,
8 such sales are substantial, continuous, and systematic.

9 43. RBI: Upon information and belief, RBI has sold its products, including its falsely
10 marked products, in California and in this District and/or in the stream of commerce with knowledge
11 that they would be sold in California and in this District. Upon information and belief, such sales are
12 substantial, continuous, and systematic. Upon information and belief, RBI has appointed an agent for
13 service of process in California: Corporation Service Company, 2730 Gateway Oaks Dr Ste 100,
14 Sacramento CA 95833.

15 44. Roche: Upon information and belief, Roche has sold its products, including its falsely
16 marked products, in California and in this District and/or in the stream of commerce with knowledge
17 that they would be sold in California and in this District. Upon information and belief, such sales are
18 substantial, continuous, and systematic. Upon information and belief, Roche has appointed an agent
19 for service of process in California: CT Corporation System, 818 West Seventh St, Los Angeles CA
20 90017. Upon information and belief, Roche operates the web site at www.accu-cheek.com to
21 advertise its Accu-Chek products. On that web site, Roche advertises that its falsely marked products
22 are available for purchase at numerous retail store chains with many locations in California and in
23 this District, such as CVS, Walgreens, Wal-Mart, Rite-Aid, Target, K-Mart, Safeway, Costco, Fry's
24 Electronics, Albertson's, A&P, Raley's, and Save Mart.

25 45. SoftSheen-Carson: Upon information and belief, SoftSheen-Carson has sold its
26 products, including its falsely marked products, in California and in this District and/or in the stream
27 of commerce with knowledge that they would be sold in California and in this District. Upon

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⁶ <http://www.prestigebrands.com/where-buy.htm>

1 information and belief, such sales are substantial, continuous, and systematic. SoftSheen-Carson
2 advertises its products, including the falsely marked products, on its web site, www.softsheen-
3 carson.com. A page⁷ on that web site directs potential customers to retail locations in California and
4 in this District where such products are sold; that page lists 15 such locations in or near this court's
5 zip code, 95113.

46. Sun: Upon information and belief, Sun has sold its products, including its falsely marked products, in California and in this District and/or in the stream of commerce with knowledge that they would be sold in California and in this District. Upon information and belief, such sales are substantial, continuous, and systematic. Upon information and belief, Sun operates the web sites at www.sunproductscorp.com and [www.snuffle.com](http://www.snuggle.com) to advertise its falsely marked products. Sun encourages users of its products who visit its web sites, including users in California and in this District, to "Register with Snuffle® so we can let you know about special offers and new products."⁸

47. Sunstar: Upon information and belief, Sunstar has sold its products, including its falsely marked products, in California and in this District and/or in the stream of commerce with knowledge that they would be sold in California and in this District. Upon information and belief, such sales are substantial, continuous, and systematic. Sunstar advertises its products, including the falsely marked products, on its web site at www.gumbrand.com. On that web site, Sunstar directs prospective customers to search for local retail stores that sell its products, including the falsely marked products. That page on Sunstar's web site indicates that at least 9 such retail locations exist in or near this court's zip code, 95113. Sunstar's web site also provides a "Shop Now" feature, which leads potential customers a Sunstar-branded web site from which such products can be purchased.⁹ A page on that site states that Sunstar ships such products "to the 50 United States", including California.¹⁰ Upon information and belief, such products are sold through this web site, including to purchasers in California and in this District.

Intradistrict Assignment

48. Assignment to the San Jose Division is appropriate because a substantial portion of the

http://www.softsheen-carson.com/_us/_en/stores/index.aspx?zipcode=95113&cntry=US&radius=50&results=20

⁸ [http://www.snuffle.com/data/registration/registration.aspx](http://www.snuggle.com/data/registration/registration.aspx)

⁹ https://cart.jbutler.com/store.php?crn=286&rn=505&action=show_detail&p_rn=505

¹⁰ <http://cart.jbutler.com/webcontent/policies/coverage.html>

1 events or a substantial portion of the harm underlying this case occurred in Santa Clara County.
2 Plaintiff SF Tech has its principal place of business in San Jose, in Santa Clara County. Although the
3 claims in this Complaint arise under 35 U.S.C. § 292, which is codified with the patent statutes, no
4 claim is asserted concerning infringement or validity of any patent. Therefore, this case appears to be
5 inappropriate for District-wide assignment under Civil Local Rule 3-2(c).

6 **Count 1: Glad's False Marking**

7 49. SF Tech incorporates by reference all above allegations.

8 50. Upon information and belief, Glad makes and sells many kinds of products, including
9 resealable sandwich bags and trash bags.

10 51. Glad's resealable sandwich bag products are sold in packages marked: "U.S. Patents:
11 4,829,641; 4,907,321." Upon information and belief, U.S. Patents Nos. 4,829,641 and 4,907,321
12 both expired no later than 6/23/2007. These sandwich bag products are being sold retail, marked in
13 this manner, in 2010, long after the expirations of U.S. Patents Nos. 4,829,641 and 4,907,321. Upon
14 information and belief, Glad made decisions to mark its sandwich bag products in this manner each
15 time the packages are printed, including long after those patents expired.

16 52. Glad's trash bag products include "Tall Kitchen" and "OdorShield Tall Kitchen" trash
17 bags, which are sold in packages marked: "U.S. Patent Number 5,006,380". Glad's trash bag
18 products also include "ForceFlex" trash bags, which are sold in packages marked: "Licensed under
19 U.S. Patent Numbers 5,205,650; 5,518,801; 5,650,214; 5,691,035; 5,723,087; 6,394,652 and
20 5,006,380." Upon information and belief, U.S. Patent No. 5,006,380 expired no later than 6/29/2008.
21 These trash bag products are being sold retail in 2010 with such false markings, long after the
22 expiration of U.S. Patent No. 5,006,380. Upon information and belief, Glad made decisions to mark
23 its trash bag products in this manner each time the packages are printed, including long after U.S.
24 Patent No. 5,006,380 expired.

25 53. Upon information and belief, Glad marks its products with patents to induce the public
26 to believe that each such product is protected by each patent listed and with knowledge that nothing is
27 protected by an expired patent. Accordingly, Glad falsely marked its products with intent to deceive
28 the public.

Count 2: Bajer's False Marking

54. SF Tech incorporates by reference all above allegations.

55. Upon information and belief, Bajer makes and sells many kinds of products, including Pop-Ups!™ collapsible laundry hamper products. Bajer marks the packaging in which its Pop-Ups!™ collapsible laundry hamper products are sold: "Licensed under one or more of the following Patent Category Corp. and/or Bajer Design and Marketing, Inc. Patents: U.S. Patent Nos. RE37,924E; 5,560,385; 5,664,596; 5,816,279; 5,964,533; 5,971,188; 6,006,772; 6,269,826; 6,305,396; 6,318,394; 6,390,111; 6,453,923; 6,575,185; 6,752,163; 6,851,439; 6,926,020; 7,140,376; D431,361; D449,447; D463,638; D438,009s and other U.S. and foreign patents pending." Upon information and belief, U.S. Patent No. 5,971,188 was surrendered on 12/10/2002. Upon information and belief, U.S. Patents Nos. 5,664,596, 6,305,396, 6,318,394, and 6,851,439 expired no later than 9/9/2009, 10/23/2009, 11/20/2009, and 2/8/2009, respectively.

56. Bajer's falsely marked products are being sold retail in 2010 with such false markings, after the surrender of U.S. Patent No. 5,971,188 and after the expiration of U.S. Patents Nos. 5,664,596, 6,305,396, 6,318,394, and 6,851,439. Upon information and belief, Bajer has made decisions to falsely mark its products after the surrender of U.S. Patent No. 5,971,188 and after the expiration of U.S. Patents Nos. 5,664,596, 6,305,396, 6,318,394, and 6,851,439, including each time it has printed or otherwise created such packaging.

57. Upon information and belief, Bajer marks its products with patents to induce the public to believe that each such product is protected by each patent listed and with knowledge that nothing is protected by a surrendered patent or an expired patent. Accordingly, Bajer falsely marked its products with intent to deceive the public.

Count 3: Bayer's False Marking

58. SF Tech incorporates by reference all above allegations.

59. Upon information and belief, Bayer makes and sells many kinds of products, including healthcare and pharmaceutical products and including its products branded "Ketostix® Reagent Strips for Urinalysis". Bayer marks the packaging in which its Ketostix strip products are sold with "U.S. Patent No.: 4,147,514". Upon information and belief, U.S. Patent No. 4,147,514 expired no

1 later than 11/22/1997.

2 60. Bayer's falsely marked products are being sold retail in 2010 with such false markings,
3 many years after the expiration of U.S. Patent No. 4,147,514. Upon information and belief, Bayer
4 has made decisions to falsely mark its products long after the expirations of these patents, including
5 each time it has printed or otherwise created such packaging.

6 61. Upon information and belief, Bayer marks its products with patents to induce the
7 public to believe that each such product is protected by each patent listed and with knowledge that
8 nothing is protected by an expired patent. Accordingly, Bayer falsely marked its products with intent
9 to deceive the public.

Count 4: Bright Image's False Marking

11 ||| 62. SF Tech incorporates by reference all above allegations.

12 63. Upon information and belief, Bright Image makes and sells lighting products under the
13 brand name Touch & Glow. Many Touch & Glow lighting products are falsely marked. For
14 example, Bright Image's "Lamp Touch Dimmer & Auto Turn-Off Timer" products are marked "U.S.
15 PATENT NO. 4,632,490". Also, Bright Image advertises its products on its web site, at
16 www.touchandglow.com. On the home page of its web site, Bright Image provides a link to its
17 catalog,¹¹ in which Bright Image further advertises its products. That catalog further marks Bright
18 Image's products: "Products manufactured under U.S. Patent Nos. D436,082 S, D435,832 S,
19 4,632,490, 4,668,877 and other patents pending." The products falsely marked in this Bright Image
20 catalog are:

- a. Model Ezt-712: 4-In-1 Photo Ez-Timer (UPC#081077007123)
 - b. Model Ezt-710: 3-In-1 Photo Timer (UPC#081077007109)
 - c. Model Ezt-717: Vacation Random On/Off Timer (UPC#081077007178)
 - d. Model Ezt-753: Floodlight Timer 1/2-12 Hr Adjustable (UPC#081077007536)
 - e. Model Ezt-Acl: Automatic Closet Light (UPC#081077007994)
 - f. Model S-751: Automatic Light Control (UPC#081077007512)
 - g. Model S-752: Automatic Floodlight Control (UPC#081077007529)

¹¹ http://www.touchandglow.com/v/files/T&G_Catalog.pdf

- 1 h. Model Ezt-12h: 12 Hour Adjustable Auto Turn-Off Timer
2 (UPC#081077007727)
- 3 i. Model Ezt-4hr: 4 Hour Adjustable Timer (UPC#081077007710)
- 4 j. Model Ezt-60m: 60 Minute Adjustable Auto Turn Off Timer
5 (UPC#081077007734)
- 6 k. Model Ezt-30m: 30 Minute Adjustable Auto Turn Off Timer
7 (UPC#081077007741)
- 8 l. Model S-323: Touch Dimmer & 3-Way Timer (UPC#081077003231)
- 9 m. Model S-327: Baby-Go-To-Sleep Dimmer & 3-Way Timer
10 (UPC#081077003279)
- 11 n. Model S-300: Rotary Lamp Dimmer, Screw-In (UPC#081077003002)
- 12 o. Model S-9: Touch Pad Full Range Dimmer, Screw-In (UPC#081077000094)
- 13 p. Model S-6: Touch Pad On/Off Switch, Screw-In (UPC#081077000063)
- 14 q. Model S-5: Touch Pad 3-Way Dimmer, Screw-In (UPC#081077000056)
- 15 r. Model S-7: Touch Pad Dimmer & 3-Way Timer (UPC#081077000070)
- 16 s. Model T-409: Touch Pad Dimmer, Plug-In (UPC#081077004092)
- 17 t. Model Ez-109: Full Range Dimmer Switch, Plug-In (UPC#081077001091)
- 18 u. Model Ez-103: Plug-In 3-Way Dimmer Switch, Plug-In (UPC#081077001039)
- 19 v. Model Ez-101: Plug-In On/Off Switch, Plug-In (UPC#081077001015)
- 20 w. Model Ez-209: Full Range Dimmer Switch, Screw-In (UPC#081077002098)
- 21 x. Model Ez-207: 3-Way Dimmer & Timer, Screw-In (UPC#081077002074)
- 22 y. Model Ez-203: Screw-In 3-Way Dimmer Switch , Screw-In
23 (UPC#081077002036)
- 24 z. Model Ez-201: Screw-In Touch On/Off Switch, Screw-In
25 (UPC#081077002012)
- 26 aa. Model Ez-119: Full Range Wall Dimmer (UPC#081077001190)
- 27 bb. Model Ez-113: 3-Way Touch Wall Dimmer (UPC#081077001138)
- 28 cc. Model Ez-111: Touch On/Off Wall Switch (UPC#081077001114)

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- 1 dd. Model Ez-311: On/Off Wall Box Switch (UPC#081077003118)
 2 ee. Model Ez-309: Full Range Dimmer For Fixture Box (UPC#081077030909)
 3 ff. Model Ez-301: Touch On/Off Switch For Fixture Box (UPC#081077030107)
 4 gg. Model Ez-501: Add-On Wall Plate (UPC#081077005013)
 5 hh. Model Ez-502: Add-On Touch Wire (UPC#081077005020)
 6 ii. Model Ez-449: Cabinet Lights Touch Dimmer (UPC#081077004498)

7 64. The Bright Image advertising emphasizes the novel, innovative features of its
 8 products, which further induces the public to believe that those products are patented. For example,
 9 Bright Image's web site claims:¹² "For over 25 years, Bright Image Corporation has been leading the
 10 market with new and innovative lighting controls under our registered Touch & Glow® products
 11 brand name." For example, Bright Image's catalog claims, on page 12:

- 12 • Bright Image offers the latest, technologically most advanced, and
 most comprehensive selection of touch dimmer controls available in the
 world.
- 13 • Bright Image offers trendsetting, never-offered-before, socket
 photoelectric timer controls and radio frequency (RF) wireless remote
 controls. BIC manufactures the widest selection of new products in its
 category.
- 14 • Bright Image Corporation is the only manufacturer that offers touch
 products that work with
 fluorescents, incandescent, halogen, low voltage lights and holiday
 light bulbs.
- 15 • Bright Image Corporation is the only manufacturer that offers screw-in
 socket photo-timers,
 automatic closet light and auto shut-off lamp timers.
- 16 • Bright Image is the only manufacturer that designed and offers EZ-
 Switch line of products that require no
 120V wiring thus saving substantial money and time. [...]
- 17 — World's most compact plug-in controls that do not block the second
 outlet
- 18 — The most compact screw-in socket controls to fit better in small
 lamps
- 19 — "Soft-Start" technology for dimmers which substantially increases
 bulb life
- 20 — Advanced "Flicker-Free" circuit to eliminate false turn-ons of
 photo-controls
- 21 — Most advanced "Auto Gain Circuit" provides rock-solid touch
 controls

¹² <http://www.touchandglow.com/ABOUT-US-s/29.htm>

— For use of photoelectric controls at evening and early dark morning time, we pioneered and introduced the latest feature of "Dual On/Off Circuit".

— Safety enhancing "Auto Current Limit Circuit" helps prevent electrical overloads

— To protect from transformer thermal damage, our full range dimmers come with a unique "Automatic Safety Shutdown Circuit". This home safety feature works with both magnetic and electronic transformers coupled with low-voltage halogen and incandescent lights.

65. Upon information and belief, U.S. Patents Nos. 4,632,490 and 4,668,877 expired no later than 11/22/2005 and 7/13/2005, respectively. Bright Image continues to mark its products in the manner described above in 2010, long after the expirations of those patents. Bright Image's web site is marked "Copyright © 2009 Bright Image Corporation", which indicates that Bright Image made decisions to mark its products in the manner described above long after those patents expired.

66. Upon information and belief, Bright Image marks its products with patents to induce the public to believe that each such product is protected by each patent listed and with knowledge that nothing is protected by an expired patent. Accordingly, Bright Image falsely marked its products with intent to deceive the public.

Count 5: Church & Dwight's False Marking

67. SF Tech incorporates by reference all above allegations.

68. Upon information and belief, Church & Dwight makes and sells many kinds of products, including Mentadent toothpaste products and Arm & Hammer Extra Whitening toothpaste products and Arm & Hammer Baking Soda & Peroxide toothpaste products. Church & Dwight marks the packaging in which its Mentadent toothpaste products are sold: "One or more of the following patents may apply: Patent Nos. 5,020,694; 5,038,963; 5,059,417; 5,085,853; 5,289,949; 5,372,803; 5,456,902; 5,616,313; 5,632,972; 5,645,193". Church & Dwight marks the packaging in which these Arm & Hammer toothpaste products are sold: "U.S. Patent #4,891,211/5,424,060". Upon information and belief, U.S. Patents Nos. 5,020,694, 5,038,963, and 4,891,211 expired no later than 3/17/2009, 3/17/2009, and 6/30/2008, respectively.

69. Church & Dwight's falsely marked products are being sold retail in 2010 with such false markings, after the expirations of U.S. Patents Nos. 5,020,694, 5,038,963, and 4,891,211. Upon

1 information and belief, Church & Dwight has made decisions to falsely mark its products after the
2 expirations of these patents, including each time it has printed or otherwise created such packaging.

3 70. Upon information and belief, Church & Dwight marks its products with patents to
4 induce the public to believe that each such product is protected by each patent listed and with
5 knowledge that nothing is protected by an expired patent. Accordingly, Church & Dwight falsely
6 marked its products with intent to deceive the public.

Count 6: Colgate-Palmolive's False Marking

8 | 71. SF Tech incorporates by reference all above allegations.

9 72. Upon information and belief, Colgate-Palmolive makes and sells many kinds of
10 products, including Colgate Total Clean Mint toothpaste, Colgate Total Advanced Clean plus
11 whitening toothpaste, Colgate Total Advanced Whitening toothpaste, Colgate Total Whitening
12 toothpaste, and Colgate Total Whitening gel. Colgate-Palmolive marks the packages in which its
13 Colgate Total Clean Mint toothpaste products are sold: "USP 5,156,835". Upon information and
14 belief, U.S. Patent No. 5,156,835 expired no later than 10/21/2009.

15 73. Colgate-Palmolive's falsely marked products are being sold retail in 2010 with such
16 false markings, after the expiration of U.S. Patent No. 5,156,835. Upon information and belief,
17 Colgate-Palmolive has made decisions to falsely mark its products after the expiration of U.S. Patent
18 No. 5,156,835, including each time it has printed or otherwise created such packaging.

19 74. Upon information and belief, Colgate-Palmolive marks its products with patents to
20 induce the public to believe that each such product is protected by each patent listed and with
21 knowledge that nothing is protected by an expired patent. Accordingly, Colgate-Palmolive falsely
22 marked its products with intent to deceive the public.

Count 7: Combe's False Marking

24 75. SF Tech incorporates by reference all above allegations.

25 76. Upon information and belief, Combe makes and sells many kinds of products,
26 including LiceMD Lice & Egg Treatment. Combe marks the packages in which LiceMD is sold:
27 "United States: #6,683,065 and #4,612,944". Upon information and belief, U.S. Patent No.
28 4,612,944 expired no later than 2/21/2005.

77. Combe's falsely marked products are being sold retail in 2010, after the expiration of U.S. Patent No. 4,612,944. Upon information and belief, Combe has made decisions to mark its falsely marked products after the expiration of U.S. Patent No. 4,612,944, including each time it has printed or otherwise created such packaging.

78. Upon information and belief, Combe marks its products with patents to induce the public to believe that each such product is protected by each patent listed and with knowledge that nothing is protected by an expired patent. Accordingly, Combe falsely marked its products with intent to deceive the public.

Count 8: Dial's False Marking

79. SF Tech incorporates by reference all above allegations.

80. Upon information and belief, Dial makes and sells many kinds of products, including Combat Quick Kill Formula 3 ant traps. Dial marks the packages in which these products are sold: "U.S. Patent No. 4,563,836 and other patents pending." Upon information and belief, U.S. Patent No. 4,563,836 expired no later than 1/15/2003.

81. Dial's falsely marked products are being sold retail in 2010 with such false markings, after the expiration of U.S. Patent No. 4,563,836. Upon information and belief, Dial has made many decisions to mark its falsely marked products after the expiration of U.S. Patent No. 4,563,836, including each time it has printed or otherwise created such packaging.

82. Upon information and belief, Dial marks its products with patents to induce the public to believe that each such product is protected by each patent listed and with knowledge that nothing is protected by an expired patent. Accordingly, Dial falsely marked its products with intent to deceive the public.

Count 9: Exergen's False Marking

83. SF Tech incorporates by reference all above allegations.

84. Upon information and belief, Exergen makes and sells many kinds of products, including Comfort Scanner Temporal Thermometers. Exergen marks the packages in which its Comfort Scanner thermometers are sold: "Protected by the following U.S. Patents: 4636091, 5012813, 5199436, 5653238, 5874736, 6045257, 6047205, 6056435, 6292685, 6299347, 6319206,

1 6402371, other US and foreign patents pending". Upon information and belief, U.S. Patents Nos.
2 4,636,091, 5,012,813, 5,199,436, and 5,653,238 expired no later than 6/28/2005, 12/7/2008,
3 2/20/2008, 12/7/2008, respectively.

4 85. Exergen's falsely marked products are being sold retail in 2010 with such false
5 markings, after the expiration of U.S. Patents Nos. 4,636,091, 5,012,813, 5,199,436, and 5,653,238.
6 Upon information and belief, Exergen has made many decisions to mark its falsely marked products
7 after the expiration of U.S. Patents Nos. 4,636,091, 5,012,813, 5,199,436, and 5,653,238, including
8 each time it has printed or otherwise created such packaging.

9 86. Upon information and belief, Exergen marks its products with patents to induce the
10 public to believe that each such product is protected by each patent listed and with knowledge that
11 nothing is protected by an expired patent. Accordingly, Exergen falsely marked its products with
12 intent to deceive the public.

13 **Count 10: GSK's False Marking**

14 87. SF Tech incorporates by reference all above allegations.

15 88. Upon information and belief, GSK makes and sells many kinds of products, including
16 Aquafresh Ultimate White toothpaste. GSK marks the packages in which its Aquafresh Ultimate
17 White toothpaste products are sold: "Covered by U.S. Patent Nos. 4,923,684 and 4,985,236". Such
18 packages are also marked with a copyright date of 2008. Upon information and belief, U.S. Patents
19 Nos. 4,923,684 and 4,985,236 expired no later than 5/9/2009 and 5/8/2007, respectively.

20 89. GSK's falsely marked products are being sold retail in 2010 with such false markings,
21 after the expiration of U.S. Patents Nos. 4,923,684 and 4,985,236. Upon information and belief,
22 GSK has made many decisions to mark its falsely marked products after the expiration of U.S.
23 Patents Nos. 4,923,684 and 4,985,236, including each time it has printed or otherwise created such
24 packaging.

25 90. Upon information and belief, GSK marks its products with patents to induce the public
26 to believe that each such product is protected by each patent listed and with knowledge that nothing is
27 protected by an expired patent. Accordingly, GSK falsely marked its products with intent to deceive
28 the public.

Count 11: Hi-Tech Pharmacal's False Marking

91. SF Tech incorporates by reference all above allegations.

92. Upon information and belief, Hi-Tech Pharmacal makes and sells many kinds of products, including Zostrix Neuropathy Cream. Hi-Tech Pharmacal marks the packages in which its Zostrix Neuropathy Cream products are sold: "Covered by U.S. Patent No 4,997,853". Upon information and belief, U.S. Patent No. 4,997,853 expired no later than 12/3/2008.

93. Hi-Tech Pharmacal's falsely marked products are being sold retail in 2010 with such false markings, after the expiration of U.S. Patent No. 4,997,853. Upon information and belief, Hi-Tech Pharmacal has made many decisions to mark its falsely marked products after the expiration of U.S. Patent No. 4,997,853, including each time it has printed or otherwise created such packaging.

94. Upon information and belief, Hi-Tech Pharmacal marks its products with patents to induce the public to believe that each such product is protected by each patent listed and with knowledge that nothing is protected by an expired patent. Accordingly, Hi-Tech Pharmacal falsely marked its products with intent to deceive the public.

Count 12: Johnson's False Marking

95. SF Tech incorporates by reference all above allegations.

96. Upon information and belief, Johnson makes and sells many kinds of products, including Ultrasheen Supreme relaxer and Gentle Treatment. Johnson marks the packages in which its Ultrasheen Supreme relaxer products are sold: "This product may be covered by one or more of the following US Patent Nos: 5,679,327; 5,376,364; 5,293,885; 4,950,485; 5,171,565; 5,068,101". Johnson marks the packages in which its Gentle Treatment products are sold: "US. Patent No. 4,950,485; US. Patent No. 5,171,565; US. Patent No. 5,376,364". Upon information and belief, U.S. Patents Nos. 4,950,485, 5,068,101, 5,171,565, and 5,376,364 expired no later than 3/26/2008.

97. Johnson's falsely marked products are being sold retail in 2010 with such false markings, after the expiration of U.S. Patents Nos. 4,950,485, 5,068,101, 5,171,565, and 5,376,364. Upon information and belief, Johnson has made many decisions to mark its falsely marked products after the expiration of U.S. Patents Nos. 4,950,485, 5,068,101, 5,171,565, and 5,376,364, including each time it has printed or otherwise created such packaging.

98. Upon information and belief, Johnson marks its products with patents to induce the public to believe that each such product is protected by each patent listed and with knowledge that nothing is protected by an expired patent. Accordingly, Johnson falsely marked its products with intent to deceive the public.

Count 13: Maybelline's False Marking

99. SF Tech incorporates by reference all above allegations.

100. Upon information and belief, Maybelline makes and sells many kinds of products, including mascara products. Several varieties of Maybelline's Volume Express Mascara products (colors: 201 very black, 202 brownish black, 221 very black, 261 very black) are marked: "U.S. PATENTS: 4,871,536; 4,877,622; 4,898,193; 4,993,440 U.S. PATENTS PENDING". At least one color (251 very black) of Maybelline's Volume Express Mascara products are marked: "U.S. PATENTS: 4,877,622; 4,898,193; 4,993,440". At least one color (302 brownish black) of Maybelline's Full 'N Soft Mascara products is marked: "U.S. PATENTS: 4,887,622; 5,618,523; 6,015,574; 6,221,389; 6,467,967". At least one color (352 brownish black) of Maybelline's Lash Discovery Mascara products is marked: "U.S. PATENTS: 4,871,536." (The marking with U.S. Patent No. 4,877,622 appears to be in error; Maybelline appears to have intended to mark with U.S. Patent No. 4,887,622.) Upon information and belief, U.S. Patents Nos. 4,871,536, 4,877,622, 4,887,622, 4,898,193, and 4,993,440 expired no later than 10/4/2006, 1/14/2009, 11/31/2007, 10/21/2007, and 2/20/2008, respectively.

101. Maybelline' falsely marked products are being sold retail in 2010 with such false markings, after the expiration of U.S. Patents Nos. 4,871,536, 4,877,622, 4,887,622, 4,898,193, and 4,993,440. Upon information and belief, Maybelline has made many decisions to mark its falsely marked products after the expiration of U.S. Patents Nos. 4,871,536, 4,877,622, 4,887,622, 4,898,193, and 4,993,440, including each time it has printed or otherwise created such packaging.

102. Upon information and belief, Maybelline marks its products with patents to induce the public to believe that each such product is protected by each patent listed and with knowledge that nothing is protected by an expired patent. Accordingly, Maybelline falsely marked its products with intent to deceive the public.

Count 14: McNeil-PPC's False Marking

103. SF Tech incorporates by reference all above allegations.

104. Upon information and belief, McNeil-PPC makes and sells many kinds of products, including Nizoral anti-dandruff shampoo. McNeil-PPC marks the packages in which its Nizoral anti-dandruff shampoo products are sold: "US Patent Nos. 4,335,125; 4,942,162 and 5,456,851". McNeil-PPC also advertises its Nizoral products on its web site, at www.nizoral.com. One advertisement¹³ on that web site, describes the Nizoral products and is marked: "US Patent Nos. 4,335,125; 4,942,162 and 5,456,851". Upon information and belief, U.S. Patents Nos. 4,335,125 and 4,942,162 expired no later than 6/16/1999 and 7/18/2007, respectively.

105. Upon information and belief, McNeil-PPC makes and sells Rembrandt Fresh Mint toothpaste through its division Johnson & Johnson Healthcare Products. McNeil-PPC marks the packages in which its Rembrandt Fresh Mint toothpaste products are sold: "US patent 4,986,981". Such packages are also marked with a copyright date of 2008. Upon information and belief, U.S. Patent No. 4,986,981 expired no later than 1/23/2008.

106. McNeil-PPC's falsely marked products are being sold retail in 2010 with such false markings, after the expiration of U.S. Patents Nos. 4,335,125, 4,942,162, and 4,986,981. Upon information and belief, McNeil-PPC has made many decisions to mark its falsely marked products after the expiration of U.S. Patents Nos. 4,335,125, 4,942,162, and 4,986,981, including each time it has printed or otherwise created such packaging.

107. Upon information and belief, McNeil-PPC marks its products with patents to induce the public to believe that each such product is protected by each patent listed and with knowledge that nothing is protected by an expired patent. Accordingly, McNeil-PPC falsely marked its products with intent to deceive the public.

Count 15: Medtech's False Marking

108. SF Tech incorporates by reference all above allegations.

109. Upon information and belief, Medtech makes and sells healthcare products, including Dermoplast Pain Relieving Spray and Dermoplast Antibacterial Pain Relieving Spray. Medtech's

¹³ http://www.nizoral.com/vcrc/drugfacts/nizoral/niz_shampoo_110900.pdf

Dermoplast products are marked "U.S. Pat. No. 4,600,575". Upon information and belief, U.S. Patent No. 4,600,575 expired no later than 7/16/2003

110. The labels on canisters of Dermoplast Pain Relieving Spray product are also marked "© 2004 Distributed by Medtech Products, Inc." The labels on canisters of Dermoplast Antibacterial Pain Relieving Spray are also marked "© 2005 Distributed by Medtech Products, Inc." These Dermoplast products are being sold retail, marked in this manner, in 2010. Thus, upon information and belief, Medtech made decisions to mark its Dermoplast products in this manner at least in 2004 and 2005 and again each time such labels are printed — all long after U.S. Patent No. 4,600,575 expired.

111. Upon information and belief, Medtech marks its products with patents to induce the public to believe that each such product is protected by each patent listed and with knowledge that nothing is protected by an expired patent. Accordingly, Medtech falsely marked its products with intent to deceive the public.

Count 16: **Playtex's False Marking**

112. SF Tech incorporates by reference all above allegations.

113. Upon information and belief, Playtex makes and sells many kinds of products, including Playtex Kinder-Grip Bottle products. Playtex marks the packages in which its Playtex Kinder-Grip Bottle products are sold: "U.S. Patent Nos. 5,215,203 and D-320,859". Upon information and belief, U.S. Patents Nos. 5,215,203 and D320,859 expired no later than 11/29/2006 and 10/16/2005, respectively.

114. Playtex's falsely marked products are being sold retail in 2010 with such false markings, after the expiration of U.S. Patents Nos. 5,215,203 and D320,859. Upon information and belief, Playtex has made many decisions to mark its falsely marked products after the expiration of U.S. Patents Nos. 5,215,203 and D320,859, including each time it has printed or otherwise created such packaging.

115. Upon information and belief, Playtex marks its products with patents to induce the public to believe that each such product is protected by each patent listed and with knowledge that nothing is protected by an expired patent. Accordingly, Playtex falsely marked its products with

1 intent to deceive the public.

2 **Count 17: RBI's False Marking**

3 116. SF Tech incorporates by reference all above allegations.

4 117. Upon information and belief, RBI makes and sells many kinds of products, including
 5 Lysol Neutra Air Sanitzing Spray. RBI marks the packages in which its Lysol Neutra Air Sanitzing
 6 Spray products are sold: "U.S. Patent Number 5,795,566" and "U.S. Patent Number 4,840,792". RBI
 7 advertises its Lysol Neutra Air Sanitzing Spray products on its web site. That advertisement¹⁴
 8 emphasizes that the product is patented:

9 LYSOL® NEUTRA AIR® Sanitizing Spray, our breakthrough in odor
 10 elimination, contains a patented odor-eliminating technology that
 11 provides a triple-action benefit:

- 12 1. Destroys odors by killing bacteria at the source so odors won't come
 back.*
- 13 2. Eliminates odor in the air from odor-causing bacteria.
- 14 3. Refreshes the air with crisp, clean fragrance.

15 118. Upon information and belief, U.S. Patents Nos. 4,840,792 and 5,795,566 expired on
 16 5/28/2007.

17 119. RBI's falsely marked products are being sold retail in 2010 with such false markings
 18 and advertised in 2010 with such false markings, after the expiration of U.S. Patents Nos. 4,840,792
 19 and 5,795,566. Upon information and belief, RBI has made many decisions to mark its falsely
 20 marked products after the expiration of U.S. Patents Nos. 4,840,792 and 5,795,566, including each
 21 time it has printed or otherwise created such packaging and each time such advertisements are served
 22 to Internet users.

23 120. Upon information and belief, RBI marks its products with patents to induce the public
 24 to believe that each such product is protected by each patent listed and with knowledge that nothing is
 25 protected by an expired patent. Accordingly, RBI falsely marked its products with intent to deceive
 26 the public.

27 **Count 18: Roche's False Marking**

28 121. SF Tech incorporates by reference all above allegations.

122. Upon information and belief, Roche sells many healthcare and pharmaceutical

¹⁴ <http://lysol.com/products/neutra-air-products/sanitizing-spray/>

1 products, including Accu-Chek Softclix lancets. These lancet products are marked: "ACCU-CHEK
 2 Softclix is protected by U.S. Patents Nos. 4,924,879 and Re. 35,803." Roche advertises its Accu-
 3 Chek products on its web site at www.accu-cheek.com. As part of that advertising, Roche provides
 4 manuals which further advertise its lancet products. In the advertisement titled "Accu-Chek Compact
 5 Owner's Booklet",¹⁵ Roche further marks its lancet products: "The ACCU-CHEK Softclix lancet
 6 device and its use are protected by U.S. Patent Nos. 4,924,879 and Re. 35,803." In the advertisement
 7 titled "Accu-Chek Active Owner's Booklet",¹⁶ Roche further marks its lancet products: "The ACCU-
 8 CHEK Softclix lancet device and use are protected by U.S. Patent Nos. 4,924,879; 6,419,661;
 9 7,077,828; and Re. 35,803." In the advertisement titled Accu-Chek Softclix User Guide,¹⁷ Roche
 10 further marks its Softclix and Softclix Plus products: "This ACCU-CHEK Softclix device and its use
 11 are protected by U.S. Patent Nos. 4,924,879 and Re. 35,803." Roche represents on the web pages
 12 advertise these products that the advertisements were "Last updated: 11.12.2009".¹⁸

13 123. Upon information and belief, U.S. Patent No. 4,924,879 expired no later than
 14 10/8/2008. Roche's Accu-Chek products are sold retain in 2010, and the above-described
 15 advertisements are on Roche's web site in 2010, long after the expiration of U.S. Patent No.
 16 4,924,879. Thus, upon information and belief, Roche made decisions to mark its Accu-Chek
 17 products in this manner long after U.S. Patent No. 4,924,879 expired.

18 124. Upon information and belief, Roche marks its products with patents to induce the
 19 public to believe that each such product is protected by each patent listed and with knowledge that
 20 nothing is protected by an expired patent. Accordingly, Roche falsely marked its products with intent
 21 to deceive the public.

Count 19: SoftSheen-Carson's False Marking

22 125. SF Tech incorporates by reference all above allegations.

23
 24
 25¹⁵ Available at: <https://www.accu-cheek.com/us/logretriever.htm?urlString=cmV0cmlldmVyL3B1YmxpYy9SRENQVDBfTU5MMF8xMjEwMS5wZGY=>

26¹⁶ Available at: <https://www.accu-cheek.com/us/logretriever.htm?urlString=cmV0cmlldmVyL3B1YmxpYy9SREFUVjBfTU5MMF8xMjEwMS5wZGY=>

27¹⁷ <https://www.accu-cheek.com/us/logretriever.htm?urlString=cmV0cmlldmVyL3B1YmxpYy9BY2N1LUNoZWNrX1NvZnRfQ2xpeC5wZGY=>

28¹⁸ <https://www.accu-cheek.com/us/lancing-devices/softclix-plus.html> and <https://www.accu-cheek.com/us/lancing-devices/softclix.html>

126. Upon information and belief, SoftSheen-Carson makes and sells many kinds of products, including Optimum Care Anti-Breakage Therapy products. SoftSheen-Carson marks the packaging in which its Optimum Care Anti-Breakage Therapy products are sold: "This product may be covered by US Patents #5,618,523 and 5,077,042". Upon information and belief, U.S. Patent No. 5,077,042 expired no later than 3/26/2008.

127. SoftSheen-Carson's falsely marked products are being sold retail in 2010 with such false markings, after the expiration of U.S. Patent No. 5,077,042. Upon information and belief, SoftSheen-Carson has made decisions to falsely mark its products long after the expirations of that patent, including each time it has printed or otherwise created such packaging.

128. Upon information and belief, SoftSheen-Carson marks its products with patents to induce the public to believe that each such product is protected by each patent listed and with knowledge that nothing is protected by an expired patent. Accordingly, SoftSheen-Carson falsely marked its products with intent to deceive the public.

Count 20: Sun's False Marking

129. SF Tech incorporates by reference all above allegations.

130. Upon information and belief, Sun makes and sells many kinds of products, including Snuggle fabric softener products. Sun marks the packaging in which its Snuggle fabric softener products, such as the White Lavender and Sandalwood variety, are sold with "US Patent Nos. 5,288,417 and 5,108,009; other patents pending." Upon information and belief, U.S. Patent No. 5,108,009 expired no later than April 29, 2009.

131. Sun's falsely marked products are being sold retail in 2010 with such false markings, after the expiration of U.S. Patent No. 5,108,009. Upon information and belief, Sun has made decisions to falsely mark its products long after the expirations of that patent, including each time it has printed or otherwise created such packaging.

132. Upon information and belief, Sun marks its products with patents to induce the public
to believe that each such product is protected by each patent listed and with knowledge that nothing is
protected by an expired patent. Accordingly, Sun falsely marked its products with intent to deceive
the public.

Count 21: Sunstar's False Marking

133. SF Tech incorporates by reference all above allegations

3 134. Upon information and belief, Sunstar makes and sells many kinds of products,
4 including GUM Proxabrush. Sunstar marks the packaging in which its GUM Proxabrush Handle
5 Snap-on products are sold with: "The PROXABRUSH Handle is protected by patents pending or one
6 or more of the following U.S. Patents: 5,027,467; 5,201,091; 5,633,083 and Reg. U.S. Pat. & T.M.
7 Off." Sunstar marks the packaging in which its GUM Proxabrush Trav-ler products are sold: "The
8 PROXABRUSH TRAV-LER is protected by one or more of the following U.S. Patents: #4,691,404;
9 #5,488,751; 5,633,083". Upon information and belief, U.S. Patents Nos. 4,691,404, 5,027,467, and
10 5,201,091 expired no later than 2/22/2005, 2/7/2010, and 7/2/2008, respectively.

11 135. Sunstar's falsely marked products are being sold retail in March 2010 with such false
12 markings, after the expirations of U.S. Patents Nos. 4,691,404, 5,027,467, and 5,201,091. Upon
13 information and belief, Sunstar has made decisions to falsely mark its products after the expirations
14 of these patents, including each time it has printed or otherwise created such packaging.

136. Upon information and belief, Sunstar marks its products with patents to induce the
public to believe that each such product is protected by each patent listed and with knowledge that
nothing is protected by an expired patent. Accordingly, Sunstar falsely marked its products with
intent to deceive the public.

Demand For Judgment

SF Tech demands judgment against each defendant, as follows:

1. A declaration that each defendant violated 35 U.S.C. § 292.
 2. A civil fine of \$500 for each offense — half paid to the U.S., and half paid to SF Tech.
 3. Any other relief the court deems appropriate.

Demand For Jury Trial

SF Tech demands a jury trial on all issues so triable.

Date: March 5, 2010

Mount & Stoelker, P.C.,

/s/ Dan Fingerman

Attorneys for San Francisco Technology Inc.